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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,799	03/23/2004	Peter Jakubowski	AMANO-002G	2909

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EXAMINER

NOLAN JR, CHARLES H

ART UNIT	PAPER NUMBER
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2854

DATE MAILED: 11/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/806,799

Applicant(s)

JAKUBOWSKI ET AL.

Examiner

Charles H Nolan, Jr.

Art Unit

2854

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-10 and 24-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-10 and 24-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 7,24,27-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Miyakawa (5,504,510).

With respect to Claim 7, Miyakawa teaches the housing 1 in figure 5, the dot matrix painter (wire dot printer) in column 1, lines 23-25, the printer readable resistive ink identifier 71 disposed on the housing 1 in figure 19 and his claim 3(where the device is integral to a printer and, therefore, is being read by the printer). It is noted that ink ribbon is inherently inside the cartridge 1 of Miyakawa because it is an unavoidably necessary part of the wire dot printer as taught by Miyakawa in column 1, lines 23-25. Further, Miyakawa teaches that the resistive value of the ink identifier corresponds to a characteristic in column 16, lines 39-58. With respect to Claims 24,27-29, Miyakawa teaches that the resistive identifier may be cut (its length or width changed) to represent a different resistive value in column 16, lines 44-46. With respect to Claim 30, it is noted that an unavoidably necessary part of Miyakawa's invention is that the resistive value of the resistive ink identifier is a function of the material the used to form the identifier.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 8,31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miyakawa in view of Gaston et al. (5,051,719).

With respect to Claims 8 and 31, Miyakawa teaches all the claim limitations except that the resistive ink identifier is silk-screened onto the housing. Gaston teaches that the resistive ink identifier may be silk-screened in the Abstract. It would have been obvious to one of ordinary skill in the art to silk-screen the resistive identifier because of the "...smooth resistance characteristic, a reduction in component cost, and high durability..." as taught by Gaston in the Abstract, lines 1-3.

5. Claims 9,25-26 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miyakawa in view of Ujita et al. (5,506,611).

With respect to Claims 9 and 32, Miyakawa teaches all the claim limitations except that the resistive ink identifier is printed on a label. Ujita teaches that the resistive ink identifier is printed on a label in the Abstract and column 32, lines 60-65. It would have been obvious to apply the resistive ink identifier to a label as method that is similar in cost and performance to direct printing. With respect to Claims 25-26, Miyakawa teaches all the limitations except for the type of ink/ink ribbon installed in the ink cartridge. Ujita teaches the type of ink/ink ribbon installed in the ink cartridge in column

12, lines 20-25. It would have been obvious to one of ordinary skill in the art to have resistive identifier correspond to the type of ink/ink ribbon installed in the ink cartridge to avoid the problems with incompatible inks as taught by Ujita in column 2, lines 30-50.

6. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Miyakawa.

With respect to Claim 10, Miyakawa teaches all the claim limitations except that the resistive ink identifier is color-coded. *In re Seid*, 161 F.2d 229, 73 USPQ 431 (CCPA 1947) (Claim was directed to an advertising display device comprising a bottle and a hollow member in the shape of a human figure from the waist up which was adapted to fit over and cover the neck of the bottle, wherein the hollow member and the bottle together give the impression of a human body. Appellant argued that certain limitations in the upper part of the body, including the arrangement of the arms, were not taught by the prior art. **The court found that matters relating to ornamentation only which have no mechanical function cannot be relied upon to patentably distinguish the claimed invention from the prior art.**) It would have been obvious to one of ordinary skill to use a color-coding scheme as an aesthetic feature to alert a user of differences in ink cartridges.

7. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Miyakawa in view of JP 4-246583 (hereafter '583).

With respect to new Claim 33, Miyakawa teaches all the claim limitations except that the cartridge regulates a printer operation. '583 teaches that the cartridge regulates a printer operation in the Constitution of the Abstract. It would have been obvious to one

of ordinary skill in the art to incorporate the printer regulation function of '583 into the invention of Miyakawa to "improve an operation property of the print[er]" as taught by '583 in the Purpose of the Abstract.

Response to Arguments

8. Applicant's arguments filed 10-25-04 with respect to Claim 7 have been fully considered but they are not persuasive. Applicant argues in the response dated 10-25-04 that the cartridge of Miyakawa is not readable by a printer. The Examiner disagrees. Miyakawa teaches in his claim 3 that the device is installed (integral to a printer). Thus, the cartridge of Miyakawa is printer readable.

9. Applicant's arguments with respect to new claim 33 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

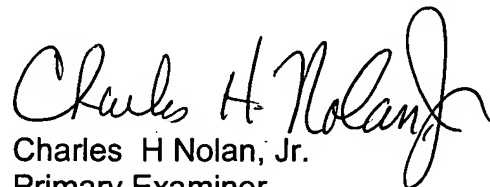
10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles H Nolan, Jr. whose telephone number is 571-272-2171. The examiner can normally be reached on Monday through Thursday 8:00 AM to 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Hirshfeld can be reached on 571-272-2168. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Charles H Nolan, Jr.
Primary Examiner
Art Unit 2854

CHN